

ORDINANCE #29-2003

**AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, DENYING TXU GAS COMPANY'S REQUEST TO CHANGE RATES IN THIS MUNICIPALITY AS A PART OF THE COMPANY'S STATEWIDE GAS UTILITY SYSTEM; PROVIDING A REQUIREMENT FOR A PROMPT REIMBURSEMENT OF COSTS INCURRED BY THE CITY; PROVIDING AN EFFECTIVE DATE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; CALLING A PUBLIC HEARING; AND PROVIDING FOR NOTICE OF THIS ORDINANCE TO TXU GAS COMPANY**

WHEREAS, on or about May 23, 2003, TXU Gas Company (the "Company") filed with the City of Abilene ("City"), a Statement of Intent to change gas rates in all municipalities within the Company's statewide gas utility system effective June 27, 2003;

WHEREAS, the City has previously extended the effective date of the Company's rate filing;

WHEREAS, the City has exclusive original jurisdiction to evaluate the Company's Statement of Intent as it pertains to the distribution facilities located within the City, pursuant to Texas Utilities Code §§ 102.001(b) and 103.001;

WHEREAS, the Texas Utilities Code § 103.022 provides that costs incurred by the City in ratemaking activities are to be reimbursed by the regulated utility;

WHEREAS, the City is participating with a coalition of over 120 other Cities in opposition to the Company's filing at the Railroad Commission, said coalition being known as Allied Coalition of Cities ("ACC"), in GUD No. 9400 pending at the Commission;

WHEREAS, ACC and the Company have reached a procedural agreement regarding the schedule for processing GUD No. 9400 that includes TXU's concession to allow one hundred fifteen (115) additional days to process the rate case and ACC's commitment that member Cities expedite the process of getting city action appealed to the Commission;

WHEREAS, ACC and TXU jointly endorse the City's denial of the Company's rate application pending before the City;

WHEREAS, counsel for ACC, upon review of the Company's filing and upon consultation with various consultants, recommends findings that the Company's proposal is unjustified and unreasonable; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:**

SECTION 1. The Company's Statement of Intent to change gas rates within the City, as part of the Company's statewide gas utility system, is found to be unreasonable because: (a) TXU's requested return on equity is excessive, generating more than 86% of the requested increase in rates; (b) the basis for TXU's proposed consolidations (of regional distribution systems and of pipeline costs with distribution costs) has not been established; (c) the City's jurisdiction to increase pipeline rates has not been established and, therefore, the proposed pipeline cost increases should be disallowed; (d) revenue requirements should be reduced rather than increased; and (e) the TXU filing should be denied pursuant to agreement with the Company; and is therefore denied in all respects.

SECTION 2. The costs incurred by the City in reviewing the Company's application be promptly reimbursed by the Company.

SECTION 3. This Ordinance shall become effective immediately from and after its passage, as the law and charter in such cases provide.


SECTION 4. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

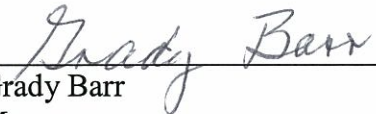
SECTION 5. A copy of this ordinance, constituting final action on the Company's application, be forwarded to the appropriate designated representative of the Company within 10 days as follows: Autry L. Warren, Director Gas Regulatory, TXU Business Services, 1601 Bryan Street, Dallas, Texas 75201-3402.

PASSED ON FIRST READING this 14 day of August, 2003.

PASSED ON SECOND AND FINAL READING after public hearing this 28 day of August, 2003.

ATTEST:

  
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Jo Moore  
City Secretary

  
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Grady Barr  
Mayor

APPROVED:

  
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Sharon E. Hicks  
City Attorney